

Service Date: May 8, 1996

DEPARTMENT OF PUBLIC SERVICE REGULATION  
BEFORE THE PUBLIC SERVICE COMMISSION  
OF THE STATE OF MONTANA

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IN THE MATTER of the Application )	
of PACIFICORP for Authority )	UTILITY DIVISION
to Issue and Sell or Exchange )	DOCKET NO. D96.4.63
Not More than \$250,000,000 of )	DEFAULT ORDER NO. 5912
its No Par Serial Preferred )	
Stock. )	

On March 11, 1996, PacifiCorp (Company), a corporation organized and existing under and by virtue of the laws of the State of Oregon and qualified to transact business in Montana, filed with the Montana Public Service Commission its verified application, pursuant to §§ 69-3-501 through 69-3-507, MCA, requesting an order authorizing the Company to issue and sell or exchange, from time to time, shares of its fixed or floating rate No Par Serial Preferred Stock with an aggregate preference on involuntary liquidation of not more than \$250,000,000. On April 8, 1996, the Commission issued Default Order No. 5908 in Docket No. D96.3.38 granting the Company's request.

On April 18, 1996, the Company filed an amending application requesting that the authority granted in Docket No. D96.3.38, Default Order No. 5908, be expanded to include subordinated debt issued by the Company to a special purpose entity (SPE) in support of preferred securities issued by the SPE to the public.

The application is supported by exhibits and data in accordance with the rules and regulations of the Commission governing the authorization of the issuance of securities by electric and gas utility companies operating within Montana.

For detailed information with respect to the general character of the Company's business and the territories served by it, reference is made to its annual reports on file with the Commission.

The application sets forth Counsel who will pass upon the legality of the proposed issuance, the other regulatory authorizations required, and the propriety of the proposed issue.

At a regular open session of the Montana Public Service Commission held in its offices at 1701 Prospect Avenue, Helena, Montana, on May 6, 1996, there came before the Commission for final action the matters and things in Docket No. D96.4.63, and the Commission, having fully considered the application and all the data and records pertaining to it on file with the Commission and being fully advised in the premises, makes the following:

#### FINDINGS

1. The Company is a corporation organized and existing under and by virtue of the laws of the State of Oregon and is qualified to transact business in the State of Montana.

2. The Company is operating as a public utility as defined in § 69-3-101, MCA, and is engaged in furnishing electric service in Montana.

3. The Company was incorporated under Oregon law in August 1987 for the purpose of facilitating consummation of a merger with Utah Power & Light Company, a Utah corporation, and changing the state of incorporation of PacifiCorp from Maine to Oregon. The Company uses the assumed business names of Pacific Power & Light Company and Utah Power & Light Company within their respective service territories located in the states of California, Idaho, Montana, Oregon, Utah, Washington and Wyoming.

4. The Commission has jurisdiction over the subject matter of the application under § 69-3-102, MCA.

5. Notice of the application was published as a part of the Commission's regular weekly agenda.

6. The Company proposes, from time to time, to (I) issue and sell or exchange shares of its fixed or floating rate No Par Serial Preferred Stock (Preferred Stock), or (ii) issue its subordinated debt to an SPE in support of preferred securities of the SPE, or (iii) exercise both of such authorities, provided that the aggregate preference on involuntary liquidation of the preferred stock and preferred securities issued pursuant thereto not exceed \$250,000,000. The Company also requests Commission approval of the issuance of additional subordinated debt of the Company to the SPE in connection with its receipt of all of the common securities of the SPE and Commission approval of certain guarantee and expense payment agreements proposed to be entered into by the Company with respect to the preferred securities of the SPE. The Company requests that the amended authority remain in effect through December 31, 1997.

7. In the event the Company chooses to issue its Preferred Stock, the number of shares will depend upon the assigned liquidation preference on involuntary liquidation, but the aggregate preference on involuntary liquidation of the Preferred Stock will not exceed \$250,000,000. The Preferred Stock will be issued pursuant to the Company's Restated Articles of Incorporation, as amended (Articles); will constitute one or more new series of a class of the Company's authorized preferred stock; will be entitled to cumulative dividends, redemption rights, liquidation preference rights and voting rights as determined by the Company at the time of issuance. Otherwise, the Preferred Stock will have the same rights, terms and characteristics as the outstanding series of the Company's No Par Serial Preferred Stock. These rights, terms and characteristics are set forth in the Company's Articles. Because the Preferred Stock is expected to be issued and sold primarily to retail

investors, the Preferred Stock is expected to have a stated value of \$25 per share and be listed on the New York Stock Exchange (NYSE).

8. In a transaction involving preferred securities of an SPE, the Company would organize the SPE and issue subordinated debt of the Company to the SPE in connection with the receipt of all of the common securities of the SPE. The SPE would issue preferred securities with an aggregate preference on involuntary liquidation of not to exceed \$250,000,000. The SPE preferred securities are expected to have a liquidation preference of \$25 each, have cumulative dividends payable quarterly and be listed on the NYSE. In addition to an issuance for cash, the preferred securities of the SPE may also be issued in exchange for subordinated debt securities issued by the Company under Docket No. D96.2.25. In either type of transaction, the SPE would receive or be deemed to have received subordinated debt of the Company in an aggregate principal amount corresponding to the liquidation preference of the preferred securities issued by the SPE. In certain circumstances, the subordinated debt of the Company underlying the preferred securities of the SPE could be distributed to the holders of the preferred securities in connection with the liquidation of the SPE.

9. It is anticipated that the Company will guarantee the SPE's payment of: (I) any accumulated and unpaid distributions required to be paid on the preferred securities of the SPE to the extent that the SPE has funds on hand available therefor; (ii) the redemption price with respect to any preferred securities called for redemption to the extent that the SPE has funds on hand available therefor; and (iii) upon a voluntary or involuntary dissolution, winding-up or liquidation of the SPE (unless the Company's subordinated debt is distributed to holders of the SPE's preferred securities), the lesser of (a) the aggregate of the liquidation preference and all accrued and

unpaid distributions to the date of payment and (b) the amount of assets of the SPE remaining available for distribution to holders of the preferred securities. The guarantee is expected to be directly enforceable by holders of the preferred securities issued by the SPE and subordinate to all senior debt of the Company. It is also anticipated that the Company and the SPE will enter into an expense reimbursement arrangement under which the Company will agree to pay certain expenses of the SPE.

10. Offering costs are not expected to exceed 3.15%.

11. The results of the financings are expected to be:

ESTIMATED RESULTS OF THE FINANCINGS

	<u>Total</u>	<u>Per \$100</u>
Gross Proceeds*	\$250,000,000	\$100.00
Less: Underwriting Fees at Approximately 3.15%	<u>7,875,000</u>	<u>3.15</u>
Proceeds Payable to Company	\$242,125,000	\$ 96.85
Less: Other Issuance Expenses	<u>550,000</u>	<u>0.22</u>
Net Proceeds to Company	<u>\$241,575,000</u>	<u>\$ 96.63</u>

\*Represents issuance of Preferred Stock by the Company or amount of subordinated debt of the Company corresponding to preferred securities of the SPE.

12. The Company intends to use the proceeds for purposes set forth in ' 69-3-501 MCA. Proceeds may be used for one or more of the following purposes: the acquisition of property; the construction, completion, extension, or improvement of facilities; the improvement of service; the discharge or refunding of obligations; and to reimburse the Company for funds expended from income or from other treasury funds that were not derived from the issuance of securities, provided that the funds to be reimbursed were used in furtherance of one or more of the utility purposes authorized by ' 69-3-501 MCA. To the extent that the funds to be reimbursed were used for the discharge or refunding of obligations,

those obligations or their precedents were originally incurred in furtherance of a utility purpose.

13. Issuances of the securities proposed are part of an overall plan to finance the cost of the Company's facilities taking into consideration prudent capital ratios, earnings coverage tests and market uncertainties as to the relative merits of the various types of securities the Company could sell.

14. The issuance of an order authorizing the proposed financing does not constitute agency determination/approval of any issuance-related ratemaking issues which issues are expressly reserved until the appropriate proceeding.

#### **CONCLUSIONS OF LAW**

1. The proposed issuances to which the application relates will be for lawful objects within the corporate purposes of the Company. The method of financing is proper.

2. The application should be approved.

#### **ORDER**

IT IS THEREFORE ORDERED by the Commission that:

1. The application of PacifiCorp for authority to issue and sell or exchange, from time to time, shares of its fixed or floating rate No Par Serial Preferred Stock with an aggregate preference on involuntary liquidation of not more than \$250,000,000, pursuant to ' ' 69-3-501 through 69-3-507, MCA, and to use the proceeds as described in the application, is approved.

2. The application of PacifiCorp to issue, from time to time, its subordinated debt to a special purpose entity in support of preferred securities of the special purpose entity having an aggregate preference on involuntary liquidation of not to exceed \$250,000,000 is hereby approved.

3. PacifiCorp may exercise the separate authorities granted above or both of such authorities provided that the aggregate

preference on involuntary liquidation of any Preferred Stock issued by PacifiCorp and any preferred securities issued by a special purpose entity not exceed \$250,000,000.

4. PacifiCorp may issue additional subordinated debt to a special purpose entity in connection with the receipt of all of its common securities and may also enter into guarantee and expense payment agreements, in each case substantially as described in the Company's application.

5. The authority granted herein shall remain in effect through December 31, 1997.

6. PacifiCorp shall file the following as they become available:

- a. The "Report of Securities Issued" required by 18 CFR 34.10.
- b. Verified copies of any agreement entered into in connection with the issuance of preferred stock or preferred securities pursuant to this Order.
- c. A verified statement setting forth in reasonable detail the disposition of the proceeds of each offering made pursuant to the order.

7. Issuance of this Order does not constitute acceptance of PacifiCorp's exhibits or other material accompanying the application for any purpose other than the issuance of this Order.

8. Approval of the transaction authorized shall not be construed as precedent to prejudice any future action of this Commission.

9. Section 69-3-507, MCA, provides that neither the issuance of securities by PacifiCorp pursuant to the provisions of this Order, nor any other act or deed done or performed in connection with the issuance, shall be construed to obligate the State of Montana to pay or guarantee in any manner whatsoever any security authorized, issued, assumed, or guaranteed.

10. This Order shall be effective upon execution.

DONE IN OPEN SESSION at Helena, Montana, this 6th day of May, 1996, by a vote of 5 - 0.



BY ORDER OF THE MONTANA PUBLIC SERVICE COMMISSION

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NANCY McCaffree, Chair

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DAVE FISHER, Vice Chair

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BOB ANDERSON, Commissioner

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DANNY OBERG, Commissioner

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BOB ROWE, Commissioner

ATTEST:

Kathlene M. Anderson  
Commission Secretary

(SEAL)

NOTE: Any interested party may request that the Commission reconsider this decision. A motion to reconsider must be filed within ten (10) days. See 38.2.4806, ARM.